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South Carolina House of Representatives

Legislative Update

Robert J. Sheheen, Speaker of the House

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House Week in Review

The week of March 1 was dominated by debate over H. 4633, a bill introduced by House Ways and Means Committee Chairman Billy Boan to gradually phase out school operating taxes imposed on residential housing and place temporary spending caps on local government. Much of the debate centered on whether local government spending caps should be applied permanently. As originally introduced, the bill would have applied spending caps to local government spending through fiscal year 1998, limiting increases in local government spending to the rate of inflation. However, several legislators, concerned that local government spending would increase at a rapid rate once the caps were lifted, introduced an amendment to permanently limit increases in local government spending to the rate of inflation. Although some legislators expressed concern that these caps would unduly interfere with the powers of local government, the House on Wednesday voted 82-32 to adopt permanent caps on local government spending.

On Thursday, several legislators proposed an amendment to increase the state sales tax from 5 percent to 7 percent and to eliminate virtually all of the sales tax exemptions currently existing in South Carolina. Proceeds from the increased sales tax would have been used to abolish all property taxes. Proponents of the legislation cited the increasing number of constituents hard-pressed to pay increased property taxes and claimed that elimination of property taxes would be an important incentive in attracting new business and development to the state. However, opponents expressed concern that an increased sales tax would negatively impact farming operations and hurt persons on fixed incomes. Other legislators stated that tax legislation of this magnitude was too sweeping to be considered in such a short time and that the legislation should first go to the House Ways and Means Committee for further study. The House finally voted 62-45 to table this amendment. Later that day, the House voted 55-45 to invoke immediate cloture on the bill. Further debate on the bill will continue once the House has taken up H. 4820, the General Appropriation bill.

Also on Thursday, the House and Senate convened in joint session for a brief period to hear an address by Miss Kimberly Aiken, a Columbia native who was crowned Miss America last year. In her speech, Miss Aiken emphasized the

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problem of homelessness in America and urged the General Assembly to pass legislation to address that problem.

On Monday afternoon, March 7, the full House began deliberations on H. 4820, the 1994-1995 General Appropriation Bill (state budget). Debate on the budget is expected to last throughout the week. A summary of highlights of the appropriation bill will appear in the Update once the House has given approval to the bill. Immediately prior to taking up the budget on Monday, the House gave second reading to H. 4681, a bill to establish a school-to-work system to provide students with the skills necessary to enter the workforce.

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Bills Introduced

The following bills were introduced in the House last week. Not all bills introduced in the House are listed here. The bill summaries are listed according to the committee to which the legislation was referred.

Agriculture, Natural Resources and Environmental Affairs

Use of Fees for Phytosanitary Certificates by State Crop Pest Commission (H. 4839, Rep. Witherspoon). This bill requires fees for phytosanitary certificates, issued for export or import of plants to or from foreign destinations, to be assessed in accordance with the federal fee schedule. These fees are to be retained by the State Crop Pest Commission for use in administration of provisions governing the shipment into and sale in South Carolina of trees, plants and shrubs.

Revision of Membership of Commodity Boards (H. 4854, Rep. Riser). Under current law, the chairman of the South Carolina Agriculture Commission or a member of the State Department of Agriculture designated by the Commission serves as an ex-officio member of each commodity board. This bill would also allow the Commission to designate one of its members to serve as an ex-officio member of a commodity board (i.e., the Commission could designate a member of the Commission or a member of the Department of Agriculture to serve on a commodity board).

Education and Public Works

Weigh Stations on Interstate Highways Must Be Kept Open (H. 4833, Rep. Townsend). This joint resolution directs the Department of Public Safety, Department of Revenue and Taxation, and Department of Transportation, as applicable, to open all weigh stations on interstate highways and to keep them open on a 24 hour/7 day a week basis.

Physical Education Courses (S. 624, Sen. Giese). This bill deletes a provision requiring the State Superintendent of Education to supervise the administration of physical education courses provided at teacher training institutions and requires, beginning with the 1995-1996 school year, that the mandatory physical education course in the secondary schools be given over 2

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semesters. A personal fitness and wellness component must be taught for 1 semester, while a lifetime fitness component must be taught during the second semester, either over the semester or in 2 nine-week divisions. The bill also authorizes the State Board of Education, instead of the State Superintendent of Education, to promulgate regulations to carry out these provisions.

Partial Refund of License and Registration Fees of Motor Vehicles (S. 1131, Sen. Martin). This bill allows the owner or lessor of a motor vehicle licensed and registered for 2 years to receive a refund equal to one-half of the registration fee paid on the vehicle if he surrenders the license plate and registration to the Department of Revenue and Taxation during the first 12 months of the licensing period. If the owner is simultaneously registering another vehicle, then he may apply the refund amount to the registration fee due. If adopted, these provisions would apply to biennial motor vehicle registrations issued after August 1, 1993.

Invitations and Memorial Resolutions

Department of Transportation Must Perform Study of Interstate 85 Corridor for Traffic Management Purposes (H. 4843, Rep. Tucker). This joint resolution directs the Department of Transportation to conduct a study of the section of Interstate 85 running through South Carolina to evaluate the transportation needs and economic impact of transportation in the 5 counties served by that interstate and to develop a 20-year plan to ease traffic congestion and improve traffic management along that highway. The Department is to report the findings of its study to the General Assembly on January 30, 1995.

Judiciary

No Member of Immediate Family of Sitting Member of General Assembly May Be Elected or Appointed to an Office Filled by Election or Appointment of the General Assembly (H. 4832, Rep. Robinson). This bill, after July 1, 1994, prohibits anyone who is a member of the "immediate family" of a sitting member of the General Assembly from being elected or appointed to any office filled by election or appointment of the General Assembly. A member of the immediate family of a sitting legislator serving in office in violation of these provisions may complete the term for which he was elected or appointed but thereafter may not be re-elected or reappointed to the office so long as an immediate family member continues to serve in the General Assembly. The bill defines "immediate family" as (1) a child residing in a public official's or public employee's household; (2) a spouse of a public official or public employee; or (3) an individual claimed by a public official or public employee or the public official's or public employee's spouse as a dependent for income tax purposes.

Omnibus Child Support Enforcement Act (H. 4836, Rep. McElveen). This legislation is designed to improve collections of child support so as to

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prevent the need for public assistance for some families and to provide others with the means to get off welfare. This bill also includes provisions of some bills introduced earlier this session for purposes of determining paternity and child support. Among the features of this bill are the following:

---Requires the court to approve settlements and voluntary agreements in paternity and child support cases upon a finding of fairness and requires the parties to file a summons and complaint with the settlement or voluntary agreement in order to submit themselves to the jurisdiction of the court.

---Creates several presumptions for paternity regarding evidence introduced at a hearing to determine paternity. When test results showing a statistical probability of paternity are introduced, a presumption of the putative father's paternity is created if the statistical probability of paternity is 95 percent or higher. A verified and voluntary acknowledgment of paternity creates a rebuttable presumption of the putative father's paternity, while a foreign paternity determination (whether established through administrative or judicial process) creates a conclusive presumption of paternity. Evidence of a birth certificate containing the signature of the mother and the putative father creates a rebuttable presumption of paternity.

---Replaces the Uniform Reciprocal Enforcement of Support Act with the Uniform Interstate Family Support Act. This legislation provides uniform legislation to assist with the enforcement of interstate child and spousal support orders and to provide criminal and civil procedures for enforcement of the orders. (The Uniform Interstate Family Support Act also has been introduced as separate legislation under H. 4844; a more detailed summary of the act is found below in H. 4844.)

---Provides that the assignment of the rights of child support to the State by the Department of Social Services includes the rights to health care expenses and that a person's reception of or application for Medicaid benefits is considered to be an assignment of the right to support.

---Requires Social Security numbers to be included in forms prescribed by the state registrar for birth certificates, marriage licenses and marriage certificates.

---Requires a paternity acknowledgment to be provided to the Department of Social Services at no charge for the purpose of establishing a child support obligation and that otherwise this acknowledgment is not subject to inspection except upon order of the Family Court.

---Requires the Department of Social Services, for purposes of strengthening and promoting the enforcement of child support and maximizing the amount of support collected, to collaborate more effectively with the Employment Security Commission to more effectively utilize the Commission's Unemployment Benefit Intercept Program for withholding of child support

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payments and to develop, in conjunction with the Department of Insurance, a procedure for attachment of insurance settlements for the collection of child support arrearages.

---Allows the Department of Health and Environmental Control to suspend or revoke licenses or assess monetary penalties against persons or health facilities which fail to comply with procedures developed by the Department of Social Services for obtaining voluntary paternity acknowledgments on newborns.

Uniform Interstate Family Support Act (H. 4844, Rep. Shissias). This replaces the current Uniform Reciprocal Enforcement of Support Act with the Uniform Interstate Family Support Act. This new legislation is designed to assist with the interstate enforcement of child or spouse orders and to provide civil and criminal enforcement procedures. Among the features of this legislation are the following:

---Specifies that the Family Court is the tribunal, or entity, of South Carolina authorized to establish, enforce and modify support orders or to determine parentage. The court also may serve as an initiating tribunal under these provisions to request a tribunal of another state to enforce or modify a support order of that state.

---Requires employers who do business in South Carolina to comply with an income withholding order issued in another state as if the order had been issued by the South Carolina Family Court.

---Provides that a proceeding to determine parentage under these provisions is a civil matter, to be determined by a preponderance of the evidence.

---Allows the governor to demand that the governor of another state surrender an individual found in the other state who is charged criminally in South Carolina with having failed to provide for the support of an obligee. The governor also may surrender an individual found in this State who is charged criminally in another state with having failed to provide for the support of an obligee upon the demand of the other state's governor.

Limitations on Magistrate's Power to Impose Consecutive Terms of Imprisonment (H. 4855, Rep. Rogers). This bill provides that a magistrate, in sentencing a person convicted of a minor offense, does not have the power to sentence a person to consecutive terms of imprisonment totaling more than 90 days. This power limitation does not affect the transfer of criminal matters from the general sessions court to the magistrate's court.

Magistrate and Municipal Courts Have Concurrent Jurisdiction over Juveniles Charged with Litter Violations (H. 4856, Rep. D. Wilder). This bill provides that the magistrate courts and municipal courts have concurrent jurisdiction with the family courts for the trials of juveniles charged with violating litter laws.

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Establishment of Department of Cultural and Informational Resources (H. 4876, Rep. J. Harris). This bill would transfer the duties, powers, property and personnel of the Arts Division, State Library, State Museum, State Archives and History Commission, and the Confederate Relic Room to a newly-established Department of Cultural and Informational Resources. The agencies transferred to this Department would be organized into 5 divisions (e.g., Arts Division, State Museum Division, etc.). This new department would be headed by a director, appointed by the governor with the advice and consent of the Senate. The director may be removed by the governor at the latter's discretion (i.e., "without cause").

The bill also provides that the director would be responsible for overseeing, managing and controlling the operation, administration and organization of the department and would be permitted to appoint a deputy director for each of the department's divisions. Each deputy director would serve at the pleasure of the director and would be responsible to the director for the operation of programs outlined by the director.

Minors May Not Be Employed to Appear Nude in a Public Place (H. 4878, Rep. Harrell). This bill prohibits anyone from employing a person under age 18 to appear in a state of sexually explicit nudity in a public place. Mistake of age is not a defense to a prosecution under these provisions. Violation of this prohibition is a felony, punishable by imprisonment not exceeding 5 years, or a maximum fine of \$5,000, or both.

Application of Employment Protection for Reports of Violations of State or Federal Laws or Regulations to Pending Civil Action (H. 4879, Rep. McAbee). Under these provisions, the State's law providing protection for government employees who report violations of state or federal laws or regulations applies to any civil action pending on the date this act takes effect. If this act is adopted, it would be effective upon approval of the governor.

Labor, Commerce and Industry

City Housing Authority Commissioners Must Be Appointed by the Municipal Council (H. 4831, Rep. Anderson). This bill requires a municipal council, instead of the mayor, to appoint commissioners of a city housing authority.

Restoration of Driving Privileges of Person Convicted of Operating an Uninsured Vehicle (H. 4841, Rep. Neal). Under these provisions, a person whose driving privileges have been suspended for operation of an uninsured motor vehicle may have his driving privileges restored immediately upon filing proof of financial responsibility with the Department of Public Safety.

Retail Liquor Licenses (H. 4847, Rep. G. Bailey). Current law limits to three the number of retail liquor stores in which a person may have an interest. This bill deletes a provision stating that the interest of a

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relative by blood or marriage within the second degree constitutes an interest under this restriction.

Registration Renewals of Persons Who Manufacture, Distribute or Dispense Controlled Substances (H. 4873, Rep. Houck). Current law requires anyone manufacturing, distributing or dispensing controlled substances to be registered with the Department of Health and Environmental Control. This bill changes the dates for expiration and renewal of these registrations and provides staggered registrations. Under these provisions, a person's Class 20-28 registration (provided by the DHEC Board in regulation) expires October 1 of each year, while registrations other than this class expire on April 1 of each year. A registrant failing to renew by April 30 is penalized \$25 and must be notified that continued failure to renew will result in cancellation of the registration. Registration of a registrant who fails to renew by June 30 must be canceled but may be reinstated upon payment of renewal fees dues and a \$100 penalty if the registrant otherwise is in good standing and presents a satisfactory explanation for failure to renew.

Initial registrations expire on a staggered basis as follows:

(a) Class 20-28 Registrants: Registrations issued before July 1 expire October 1 of the same year; registrations issued on or after July 1 expire October 1 of the following year (e.g., registration issued in May of 1994 expires on October 1, 1994; registration issued in July of 1994 expires October 1, 1995).

(b) Registrants of Other Classes: Registrations issued before January 1 expire April 1 of the following year; registrations issued on or after January 1 expire April 1 of the following year (e.g., registration issued in December of 1993 expires April 1, 1994; registration issued in January of 1994 expires in April of 1995).

All existing controlled substance registrations expire October 1, 1994, at which time registrants renewing in Class 20-28 would re-register for one year and registrants of other classes would re-register for six months and thereafter re-register on a yearly basis thereafter (April 1995, April 1996, etc.).

Fiscal Operations of Continuing Care Retirement Communities (H. 4857, Rep. P. Harris). This bill requires the operator of a continuing care retirement community (hereafter called "community") to obtain approval from the Department of Consumer Affairs before declaring or distributing a dividend or similar distribution which generates a retained deficit or increases an existing retained deficit. The Department must give approval for this dividend declaration or distribution within 30 days from the date of request, unless the department determines that the distribution is not reasonable in relation to the operator's or facility's outstanding liabilities or would otherwise affect the financial soundness of the operator or the facility.

Additionally, when the Department has reason to believe that (1) the operator of a community is insolvent, in imminent danger of becoming

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insolvent, or in a financially unsound or unsafe condition; or (2) because of a community's financial condition, it may be unable to perform its obligations pursuant to continuing care contracts, then the Department may require the operator to submit for approval within 60 days a financial plan, detailing the method by which the operator proposes to overcome the deficiencies noted by the Department. The Department must approve or disapprove the plan within 30 days, and if approved, the plan must be immediately implemented by the operator. If, however, the plan is disapproved, or if at any time after approval it is determined that the plan is not being fully implemented, then the Department may require the operator to obtain new or additional management capability to solve its difficulties. The Department must give the reorganized management a reasonable period of time to develop a plan which, subject to Department approval, will reasonably assure that the operator will meet its responsibilities under the law. The deadlines for action may be extended by mutual agreement of the operator and the Department. Failure to implement the plan could result in suspension or revocation of the operating license of the retirement community.

The bill also revises information required on a community operating license applications, so as to require interim financial statements as of a date not more than 90 days before the date of recording the statement if the operator's fiscal year ended more than 120 days before the date the license application is filed, instead of more than 120 days before the date the disclosure statement is recorded; and to require a summary of an actuary report if the continuing care contract provides for services for the life of a person or more than a year which include mutually terminable contracts. The conditions under which the Department, in ensuring the financial responsibility of a community, may require the applicant for licensure to post bond are revised so as to require bond if the continuing care contract provides for services for the life of a person or for more than 1 year which include mutually terminable contracts. Currently bond is required if that contract provides for services for a fixed fee for the life of a person or for more than 1 year. Finally, the bill changes the requirements for licensure of a community, so as to require licensure only if the community requires payment of an entrance fee or other fee in return for a promise of future care.

Use of Pyrotechnic Materials in Enclosed Entertainment Areas Permitted (S. 1000, Sen. Rankin). This bill permits the use of pyrotechnic materials inside any enclosed entertainment or assembly area before proximate audiences, provided these pyrotechnics are used in accordance with a certain standard of the National Fire Protection Association ("Standard for the Use of Pyrotechnics Before a Proximate Audience, 1992 edition").

Medical, Military, Public and Municipal Affairs

South Carolina Self-Sufficiency and Parental Responsibility Act (H. 4835, Rep. McElveen). During the summer and fall of 1993, a task force of legislators, representatives of state agencies and private citizens performed

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a comprehensive study into the state's welfare system. The task force was requested to study this system and make recommendations for a welfare reform plan. This joint resolution (and H. 4837, summarized immediately below H. 4835) contains a number of recommendations to encourage AFDC (Aid to Families with Dependent Children) clients to become self sufficient and to discourage abuse of the welfare system. Among the recommendations listed in this joint resolution are the following:

---Directs that the Work Support Program (a job placement program for AFDC recipients), administered by the Department of Social Services (DSS) in 27 counties, be expanded to include all 46 of the state's counties.

---Directs DSS to apply for a federal waiver authorizing a transition program for employed AFDC clients, reducing economic benefits gradually each quarter after the family's income exceeds the net income allowed for AFDC eligibility. This is designed to promote stability in employment, to assist employed clients who because of their income would be ineligible for benefits but do not have sufficient income or earning power to avoid a return to welfare following abrupt termination of AFDC benefits. Also directs DSS to apply for a federal waiver to authorize DSS to remove the \$1,500 limit on the value of a client's car, to allow an AFDC family to own one vehicle without regard to value.

---Directs DSS to apply for a federal waiver to revise its Work Support Program and AFDC program to implement a self-sufficiency pilot project in the Trident counties (Berkeley, Charleston and Dorchester Counties) and in Barnwell County providing individualized intensive case management which, among other things, would consolidate all work support functions for AFDC clients under DSS and charge DSS with responsibility for placing AFDC clients into meaningful employment; and provide community service employment to clients when they successfully complete their individualized plans but no jobs are available for employment.

---Directs DSS and the Department of Commerce to develop a demonstration project in those four counties which offers incentive packages to industries in an effort to obtain employment for AFDC clients. Additionally, to assist AFDC families in these pilot project counties in moving off welfare and becoming more financially independent, DSS is to apply for federal waivers (1) allowing DSS to disregard 50 percent (instead of the current 33-1/3 percent) of a family's total gross income until the remaining 50 percent exceeded the amount of income allowed for AFDC eligibility, and (2) increasing the assets a family may have from \$1,000 to \$3,000 and (3) removing the \$1,500 limit on the value of a car of a family, allowing a family to have one vehicle without regard to value.

---Directs DSS to apply for a federal waiver to eliminate the "parental deprivation rule" which deems a family ineligible for AFDC benefits if both parents live in the home and neither is disabled. Elimination of this rule is being sought to strengthen AFDC families and provide children with the benefits of a 2-parent household.

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---Directs DSS to expand its Teen Companion Program, a Medicaid-funded project in which professional staff and AFDC mothers counsel at-risk youth about the problems associated with teen pregnancy and the difficulties of teenage parenthood.

---Directs the Department of Health and Environmental Control (DHEC) to continue efforts to obtain additional health educators and other workers so as to provide greater access to family planning counseling for AFDC clients. DHEC also is to vigorously pursue its federal waiver extending Medicaid family planning service eligibility up to 24 months after childbirth.

---Requires the concept of family planning be expanded to include more education about reproductive health, sexually-transmitted diseases with an emphasis on AIDS education, and other health-related matters so as to encourage responsible parenting. DHEC is to assist and encourage state agencies and private sector health care professionals to provide this expanded information.

South Carolina Welfare and Administrative Reform Act (H. 4837, Rep. McElveen). Like H. 4835, this joint resolution contains a number of recommendations designed to promote self-sufficiency among welfare recipients and discourage abuse of the welfare system. Among the recommendations of this joint resolution are the following:

---Directs the Department of Social Services (DSS) to apply for a federal waiver so as to allow DSS to institute more meaningful sanctions for failure of refusal of an AFDC (Aid to Families with Dependent Children) client to participate in the DSS Work Support Program. As an example, a client who initially refuses to participate in this program would have 30 days to reconsider his decision not to participate, and refusal to participate a second time would result in termination of benefits (AFDC, food stamps and Medicaid) for at least 3 months.

---Directs DSS to apply for a federal waiver authorizing the State to disregard as income or resources for continued AFDC eligibility up to \$10,000 in an AFDC client's Individual Development Account (IDA). DSS also must develop regulations governing the management and use of funds in an IDA. Individuals, community groups, businesses, family members or organizations would be allowed to provide matching contributions to AFDC clients who establish IDA's. Employers hiring AFDC clients and who make contributions to IDA's on the employee's behalf would be eligible for tax credits.

---Directs DSS to apply for a federal waiver allowing the State to exclude interest income and dividends in determining eligibility and payment amounts for AFDC.

---Directs DSS, in conjunction with the Department of Public Safety and county and local governments, to endorse local efforts to develop a statewide network of mass transit systems, to assist AFDC families in getting to their place of employment.

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---The State, to assist AFDC families in directing their efforts to becoming economically stable and financially independent, must, as funding is available, provide greater access to and place emphasis on early and continuous prenatal care and provide school nurses to increase access to primary care and more effective identification of health problems among children.

---Directs DSS, in order to enhance client access to services and reduce client confusion, to develop simplified AFDC, Medicaid and food stamp application forms and instructions which are understandable at the 3rd grade level.

---Directs DSS and the Department of Health and Human Services Finance Commission to develop a voucher management system for child day care that will increase the number of child care slots available for AFDC clients by maximizing state and federal funds and will provide a continuum of providers and services, develop on-site child care centers at state technical education schools and ease liability concerns for companies willing to start day care centers.

---Directs DSS, in conjunction with the Department of Education, to ensure that existing continuing education and adult education programs are designed to advance AFDC clients in attaining self-sufficiency and that the mechanics of these programs are structured so as to maximize access by AFDC clients.

---Directs DSS to require all children between ages 16 and 18 who are recipients of AFDC benefits who have not completed high school to attend school as a condition of continuing AFDC eligibility. DSS and the Department of Education also are to study the compulsory age for school attendance and evaluate and make recommendations to the General Assembly concerning increasing the mandatory attendance age from 16 to 17 or 18.

Controlled Substance Schedule Definitions (H. 4872, Rep. Houck). Under current law, controlled substances are classified into 5 "schedules", with substances placed in "schedule one" if they have a high potential for abuse and substances placed in other schedules (as low as "schedule five") if they have lower potentials for abuse when compared to other substances. Placement of a controlled substance under a particular schedule determines whether trafficking in that substance is a felony or misdemeanor; for example, it is a felony to traffick in a controlled substance listed in "schedule one" but a misdemeanor to traffick in a controlled substance listed in "schedule five". This bill lists injectable forms of Pentazocine as a "schedule two" controlled substance and oral dosage forms of Pentazocine as a "schedule four" controlled substance.

Reciprocal Recognition of Dental Licenses Issued by Other States (H. 4875, Rep. Neal). This bill allows the State Board of Dentistry to grant reciprocal dental licenses to licensees of other states which are members of regional testing services, even if the Board is not a member of the testing

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service, so long as the licensing requirements of the other states are otherwise equivalent to South Carolina's licensing requirements.

Parole Eligibility Contingent on Passing Reading Test (H. 4877, Rep. Fair). This bill requires a prisoner to pass a reading test as a condition for being eligible for parole. This test must be administered by the Department of Probation, Parole and Pardon Services, and in taking the test the prisoner must demonstrate that he is functionally literate. Any prisoner who because of a physical or mental disability is unable to read is exempt from this testing requirement.

Practitioners Also Include Physician's Assistant and Therapeutically Certified Optometrist (S. 1071, Sen. Bryan). This bill expands the definition of practitioner, so as to also allow a physician's assistant and therapeutically-certified optometrist to prescribe drugs. The bill also allows a physician to dispense noncontrolled prescription drugs at an entity providing free medical services if no pharmacist is available and requires all noncontrolled prescription drugs to be labeled.

Certain Community-Based Housing Exempt from Licensure Requirements (S. 1094, Sen. Courson). This bill exempts community-based housing sponsored, licensed or certified by the Department of Disabilities and Special Needs from the facility licensing requirements of the State's Certification of Need and Health Facility Licensure Act. The bill also requires the Department of Disabilities and Special Needs to provide to the Department of Health and Environmental Control (DHEC) the names and locations of these exempted facilities on a continuing basis.

Ways and Means

Rollback Taxes on Agricultural Land (H. 4834, Rep. Harvin). This bill shortens from 5 years to 1 year the length of time rollback taxes are imposed on property taxed as agricultural property which no longer is used for farming purposes. This bill also classifies unimproved real property as "fringe land" if the property is adjacent to or within a municipality with a population of at least 10,000 (according to the 1990 Census) and has municipal and water service available to it. Fringe land must be taxed in the same manner as agricultural real property if the land would qualify as such property were it not for its classification as fringe land; however, when fringe land is applied to other use, it is subject to a rollback tax of 5 years.

South Carolina Gaming and Economic Development Act (H. 4853, Rep. Scott). This lengthy bill is designed to regulate the establishment, licensure and operation of dockside gaming facilities (i.e., facilities built on navigable water to conduct wagering games such as poker, video games, etc.)

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In order to regulate these facilities, the bill creates a South Carolina Gaming Commission, consisting of 5 members appointed by the governor with the advice and consent of the Senate. Members would serve staggered 4-year terms, and 1 of the members would be designated by the governor as chairman. Commission members would be required to have a reasonable knowledge of the practice, procedure and principles of gaming operations and may not be removed by the governor except for cause. No person may be appointed to the commission, or continue to serve on the commission, if the person is not of "good moral character"; is under indictment or has been convicted of a felony; or if the person, his child, spouse or parent is employed by a member of the board of directors of or financially interested in any gaming operation subject to the jurisdiction of the commission. Before taking the duties of a commission member, a person must give bond to the State in the sum of \$25,000. The bill provides for the compensation and meetings of the commission and also requires the commission, with the approval and consultation of the governor and the advice and consent of the Senate, to employ an executive director.

The bill also lists the duties and powers of the Commission. Among other duties and powers, the Commission must exercise jurisdiction over and supervise all dockside gaming facilities, along with games and persons at those facilities; investigate applicants for licenses issued under these provisions; eject or exclude persons from dockside gaming facilities under specified circumstances; require persons involved in the ownership and management of a dockside gaming facility to submit financial statements; and employ agents, consultants and other employees and determine their duties and compensation. The Commission may seek and must receive the cooperation of the State Law Enforcement Division (SLED) in conducting background investigations of applicants for licenses issued under these provisions and in enforcing these provisions. The bill also lists information of an applicant or licensee which is open to public inspection.

Any person seeking to conduct games at a dockside gaming facility must first obtain a gaming license from the Commission. No more than 6 gaming licenses may be issued in the State, and gaming licenses may only be issued in Charleston, Horry, Jasper, Orangeburg and Richland Counties. No more than 2 dockside gaming facilities may be located in any 1 county. Before gaming licenses may be issued in those counties, a referendum must be held in the county (or, if the gaming facility is to be located in a municipality, in the municipality) authorizing the facility to be located within the county or municipality. An applicant for a gaming license must submit a nonrefundable application fee of \$100,000, which is used to defray the costs of conducting a background investigation on the applicant and processing the application. If these costs exceed the \$100,000 fee, then the applicant must pay the additional amount. The applicant also must pay a nonrefundable fee set by SLED by regulation to defray the costs associated with the search and classification of fingerprints obtained by the Commission as pertains to the gaming license application. The bill lists information which must be included in the application and prohibits the Commission from issuing a gaming license if, among other things, the applicant has been convicted of a felony, is a

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member of the Commission, or has not committed to a capital investment of at least \$75 million. The bill lists factors the Commission must consider in determining whether to issue a gaming license to an applicant and requires the Commission to give added weight to a gaming license application that proposes to locate in an economically depressed area or to provide for significant economic development over a large geographic area. After the Commission decides to award a gaming license, the licensee must pay a license fee of \$25,000 for the first year of operation to the commission before the licensee may receive the license. The annual renewal fee for a gaming license is \$10,000. No person may manage more than 2 dockside gaming facilities. Within 30 days after issuance of a gaming license, the gaming licensee must post bond in the sum of \$200,000 to the State, to be used to guarantee that the licensee makes payments and reports, keeps books and records and conducts games in conformity with these provisions.

The bill requires gaming licensees, among other things, to set the minimum and maximum wagers on games and allow agents of SLED and the Commission to inspect these gaming facilities at any time to ensure compliance with these provisions. Gaming licensees may not receive wagers from anyone who is not present at a licensed dockside gaming facility and may not permit an employee under age 21 to perform any functions involved in gaming by patrons. All tokens, chips or electronic cards used to make wagers must be purchased from a gaming licensee at places on the dockside gaming facility approved by the Commission.

The bill also requires anyone seeking to manufacture, sell or market gaming devices to first obtain a supplier's license. The bill lists information which must be included in this license and requires a nonrefundable application fee of \$50,000 to defray the costs of conducting a background investigation on the applicant. As is the case with gaming license applications, applicants for a supplier's license must pay any additional costs incurred by the Commission while conducting a background investigation. The applicant also must pay a nonrefundable fee set by SLED by regulation to defray costs associated with the search and classification of fingerprints obtained by the Commission pertaining to the supplier's license application. The bill lists factors the Commission must consider in determining whether to grant this license to an applicant and lists conditions under which an applicant is ineligible for this license. If the Commission decides to grant an applicant this license, then the licensees must pay a license fee of \$10,000 for the first year of operation to the Commission before receiving the license. In subsequent years, the supplier's license must be renewed annually at a cost of \$5,000. The Commission may determine the suitability, or may require the licensing, of any person who furnishes services or property to a gaming licenses under any arrangement pursuant to which the person receives payments based on earnings, profits or receipts from gaming. If the commission determines that the person is unsuitable to be associated with a gaming licensee, then the association must be terminated. The bill lists factors the Commission must consider in making a finding of suitability.

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The bill also requires the issuance of occupational licenses for persons to be employed at dockside gaming facilities. The nonrefundable application fee for this license is \$50, except that if the license is for a person who is a chief executive, then the fee is \$250. The fee is used to defray costs associated with background investigations of applicants. And as with applications for gaming and supplier's licenses, applicants for an occupational license must pay a nonrefundable fee set by SLED by regulation to defray costs associated with the search and classification of fingerprints obtained by the Commission as pertains to the occupational license application. The bill lists conditions under which a person may not be awarded this license and provides that the license is valid for 1 year from the date of issuance.

Several taxes are imposed on gaming licensees. Each gaming licensee on an annual basis must pay to the Commission a license fee of \$500 for each table game, slot machine or other gaming device at the licensee's dockside gaming facility. Revenues collected from these fees are deposited to the State's General Fund. Additionally, a 12 percent tax is imposed on the adjusted gross receipts received from games at dockside gaming facilities. This tax must be paid by the licensee to the Commission no later than the end of the next business day after the close of the business day when the wagers were made. 75 percent of the revenue from this tax must be credited to the State's General Fund, with the remaining 25 percent remitted monthly by the Commission to the county where the dockside gaming facility is located (if the facility is located in an unincorporated part of the county); if, however, the facility is located in a municipality, then 20 percent of the revenue is remitted to that municipality and the remaining 5 percent is remitted to the county in which the facility is located. Gaming licensees are required to keep records which indicate the total amount of gross receipts and the total amount of adjusted gross receipts.

The bill allows an administrative law judge to be designated, upon order of the Commission, to hear and decide any matter that the Commission may decide. The Commission may limit the role of the administrative law judge to that of fact-finding and making recommendations to the Commission.

The bill also provides for a number of criminal and civil penalties for violations of these provisions. Operation of a dockside gaming facility without a gaming license is a misdemeanor punishable by imprisonment of up to 1 year and/or a fine not exceeding \$500, with each day of violation constituting a separate offense. The bill makes it a felony (punishable by imprisonment not exceeding 10 years, a fine not exceeding \$10,000, and exclusion from dockside gaming facilities for life) for a person to engage in several activities, including, as examples, the giving of anything of value or benefit to a person connected with a dockside gaming facility; the use of counterfeit chips or tokens in a game; the placing of a bet after acquiring knowledge, not available to all players, of the outcome of a game which is the subject of a bet; or evading, attempting to evade or failing to comply with the payment of taxes imposed under these provisions.

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Any person conducting a gaming operation without first obtaining a license, or who continues to conduct the games after revocation of the license, or any licensee who conducts or allows to be conducted unauthorized games at an authorized dockside gaming facility is subject to a civil penalty imposed by the Commission. The civil penalty, which is in addition to any other penalties provided by law, is equal to the amount of gross receipts derived from gaming, whether or not authorized, conducted on that day, along with confiscation and forfeiture of all slot machines, gaming devices and associated equipment used in conducting unauthorized games. The Commission also may impose civil penalties up to \$5,000 against gaming employees; up to \$25,000 against suppliers; and up to \$5,000 or an amount equal to the daily gross receipts, whichever is larger, against holders of a gaming license for each violation of the provisions of this act, any regulation or order of the Commission, or any other action which in the Commission's discretion is a detriment or impediment to gaming operations.

The bill also requires the State Budget and Control Board to advance to the Commission a maximum of \$100,000 from the Civil Contingent Fund to provide start-up funds for implementation of this act.

Certain Persons and Businesses Exempt from County or Municipal Domestic Animal License Fee (H. 4874, Rep. Koon). This bill exempts the following persons and businesses from any county or municipal license fee imposed on domestic animal (i.e., members of canine or feline family) owners: (1) kennels and other businesses incorporated under state law to board domestic animals; (2) dog owners whose dogs are registered with the Department of Natural Resources under the State's Dog Registration Act and (3) owners of domestic animals confined securely indoors or confined in a securely enclosed and locked pen or run area on the owner's premises.

Elimination of Some Responsibilities of State Agency Which Administers Community Economic Development Act (S. 712, Sen. Hayes). This is the companion bill to H. 4410, which deletes provisions requiring the state agency designated by the governor with responsibility for implementing the state's Community Economic Opportunity Act to prescribe the personnel procedures and financial systems under which community-based organizations receiving funds under this act must operate and to review and approve all bylaws for organizations receiving funds under this act.

Without Reference

1994-1995 General Appropriation Bill (H. 4820, House Ways and Means Committee). This bill is the proposed state budget for fiscal year 1995 (July 1, 1994 through June 30, 1995). Debate on the \$3.9 billion budget was in progress as this Update was going to press; as noted earlier, a summary of highlights of the budget will appear in a future Update once the House has given approval to this bill.

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Appropriations from Capital Reserve Fund for Fiscal Year 1993-1994 (H. 4821, House Ways and Means Committee). This joint resolution appropriates \$66.8 million available in the Capital Reserve Fund for fiscal year 1993-1994 to a number of agencies and for various activities during fiscal year 1994-1995. Among other items, this joint resolution appropriates \$30,000,000 for settlement of the federal retirees' lawsuits; \$1,200,000 for this November's general election expenses; \$3,000,000 for the Catawba Indian Settlement; \$11,000,000 for public school textbooks; \$2,500,000 to the Department of Social Services for a welfare reform pilot program; and over \$7,500,000 to the Department of Corrections for various prison expenses.

Supplemental Appropriations From 1993-1994 State Surplus Revenues (H. 4822, House Ways and Means Committee). This joint resolution appropriates \$72.3 million in surplus state revenues available from fiscal year 1993-1994 to a number of state agencies and programs for fiscal year 1994-1995. Among other things, the joint resolution appropriates \$10.1 million for the State Health Plan; \$20.6 million for the State Employee Pay Plan; \$17.3 million for Higher Education formula funding; and transfers \$9.9 million to the State's General Reserve Fund.

South Carolina Prescribed Fire Act (S. 954, Sen. Leventis). This is the companion bill to H. 4422, which lists conditions under which prescribed fires (i.e., "controlled fires") can be conducted in South Carolina.

Audiologists Exempt from Hearing Aid Specialists Act (S. 1063, Sen. Bryan). This bill provides that the State's Hearing Aid Specialists Act does not apply to audiologists licensed to practice in South Carolina. The bill deletes provisions requiring the Department of Health and Environmental Control to appoint hearing aid specialists to conduct or supervise the hearing aid specialist licensure examinations; expands from 4 to 5 the number of licensed hearing aid specialists serving on the Commission of Hearing Aid Specialists and requires that these specialists not be audiologists; deletes a provision mandating the appointment of an audiologist to the commission and also deletes a provision allowing an audiologist to be licensed as a hearing aid specialist without taking the hearing aid specialist licensure examination.

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